CORNELIUS W. DEMOSS, JR., ET UX FOR SOUTH OF HOMELAND AVENUE (3205 11TH ELECTION DISTRICT

COUNTY BOARD OF APPEALS BALTIMORE COUNTY CASE NO. 89-24 - XA 6TH COUNCILMANIC DISTRICT

OPINION

The Petitioners, Cornelius W. DeMoss, Jr. and Sarah DeMoss, his wife, have filed an appeal to this Board from the decision of the Deputy Zoning Commissioner dated April 27, 1989 wherein their request for a special exception for a residential kennel and request for variances to permit certain setbacks were denied.

The appeal to this Board is de novo and this Opinion and Order is based upon the evidence, testimony and exhibits presented before it at the hearing on January 3, 1990.

Petitioners were represented by Georgia Lewis Leonhart, Esquire. They appeared and testified along with their daughter, Christine DeMoss, who resides with them. Also testifying on behalf of the Petitioners were Leonard Wasilewsky, a Baltimore County Zoning Inspector, and Katherine Phelan, an adjacent property owner. Four neighbors appeared and testified as Protestants. They were: Dale Thomas, Noradeen Lehrer, Mary DeBaufre and Donald Crosby. Deputy People's Counsel, Peter Max Zimmerman, participated in the proceedings.

Specifically, Petitioners are seeking a special exception to use their residential property for a residential kennel, in the rear yard of the property for the housing of five dogs maintained as family pets and show dogs, and a zoning variance to permit property line setbacks of two inches, thirteen feet, thirty-seven feet, and one hundred eleven feet, all in lieu of the required two hundred foot setback as required by the Baltimore County Zoning Regulations (BCZR).

Case No. 89-226-XA Cornelius W. DeMoss, Jr., et ux

The subject property is located at 3205 Summit Avenue in a residential community and is approximately one-third of an acre in size. It is zoned D.R.5 5 and is improved by a dwelling, garage and a shed. The Petitioners, along with their daughter, reside at the property.

The collective testimony of the Petitioners disclosed that they have resided at the property since 1972 and that they presently have five dogs, which are Alaskan Malamuts. The dogs are both family pets and show dogs, and have been on the property for the past six years. In the past there have been breedings of the dogs on the premises, but it is the present intention of the Petitioners to only have five dogs on the premises and to keep and maintain these same five dogs without any further breedings for the duration of their lifetime. Petitioners testified that they were aware that the BCZR only permit three adult dogs on the premises and that for them to be able to have the five dogs on the premises, they would need to seek a special exception for a residential kennel. Petitioners testified that they did not feel that the five dogs on the premises posed any real detriment to the surrounding neighbors and that they should be granted the requested special exception and zoning variance. Mr. Leonard Wasilewsky, a Zoning Inspector for Baltimore County, testified that he visited the subject property on five separate occasions during June, August and November, 1989. He did observe the dogs, they were not running loose, there were run areas in the rear of the property and that the dogs did make "some noise". Katherine Phelan testified that she has lived next door to the subject property for one year and that she has never been disturbed by the dogs and has never seen them run loose. She testified that during the summer there was some dog odor, but she was not sure of its source. She had no objections to the presence of five dogs at the Petitioners' property.

The testimony of the Protestants, all of whom lived either adjacent to the subject property, or less than two hundred feet from it, was far less

Case No. 89-226-XA Cornelius W. DeMoss, Jr., et ux

sympathetic to the Petitioners' request. Their chief complaints were that of noise, emanation of dog odor and the inability to peacefully and quietly enjoy their residential property.

Mr. Dale Thomas testified that he lived to the rear of the property and that his chief complaint was that of noise. He stated that the dogs howled in concert and that it could be heard in his home with the windows closed. During the month of October, he and his wife made a log of entries and on more than sixty-seven different occasions the dogs were howling which on occasion lasted for minutes at a time. He stated that the effect of the howling disturbed his child, who also had difficulty sleeping as a result of it. Noradeen Lehrer testified that she lived next to the subject property and that the howling of the dogs was "day in and day out" and that the smell from the dogs was horrible in the summertime. She stated that she leaves her windows closed and is unable to enjoy the use of the rear of her property, which is adjacent to the kennel. She stated in her opinion that she has seen no decrease in the noise from the dogs and that they had been a problem for years. Mary DeBaufre, also a nearby neighbor, testified that her chief complaint was noise and that it took place late at night and was a nuisance to her. Mr. Crosby testified that he lives at the Lehrer home, which is immediately adjacent to the kennel, and that while he is trying to sleep the howling noise from the dogs comes through the home and keeps him up at night. He further testified that the present kennel is approximately fifteen to twenty feet from the pool area in the rear of the Lehrer

Having given due consideration to all of the evidence and testimony presented in this matter, the Board finds that the request for special except for a residential kennel should be denied and will so order.

Case No. 89-226-XA Cornelius W. DeMoss, Jr., et ux

The BCZR do not allow for a residential kennel in a D.R.5.5 zone as a matter of right. Such use is only permitted by special exception upon the Petitioner satisfying the conditions contained in Section 502.1 of the BCZR. Section 502.1(a) requires that a use requested for a special exception shall not be detrimental to the health, safety, or general welfare of the locality involved. It is the opinion of the Board that this condition has not been met by the Petitioners in light of the strong testimony offered by the surrounding neighbors as to the noise, strong odors and disturbances generated by the dogs being present on the subject property. The Petitioners' property is less than one-third of an acre in size and because of its close proximity to the other residential properties in the area which are of similar size, this Board is convinced, and finds as a matter of fact, that the granting of a special exception for the kennel would be a real detriment to the neighborhood and would adversely affect the public interest. The testimony of the Protestants establishes this. Section 421.1 of the BCZR states that a kennel must be located at least two hundred feet from the nearest property line. This regulation is for the purpose of protecting adjacent and surrounding property owners from any possible detrimental effect on their property from the proposed use. In this

2.5

Having decided that the requirements of 502.1 have not been met and that this special exception should be denied, this Board will pass an Order denying the requested special exception. The request for zoning variance is a moot finding of fact by this Board.

case, the kennel's location is substantially less than the required two hundred

feet and to allow same would be inconsistent with the spirit and intent of the

Case No. 89-226-XA Cornelius W. DeMoss, Jr., et ux

ORDER

For the reasons set forth in the aforegoing Opinion, it is this 2nd day of February , 1990, by the County Board of Appeals of Baltimore County ORDERED that the requested special exception for a residential kennel be and the same is hereby DENIED.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Janu E Shatta, Lawrence E. Schmidt, Acting Chairman

PETITIONS FOR SPECIAL EXCEPTION \* BEFORE THE AND ZONING VARIANCE - W/S of Summit Avenue, 823' S of \* DEPUTY ZONING COMMISSIONER

\* OF BALTIMORE COUNTY \* Case No. 89-226-XA 6th Councilmanic District

Cornelius W. DeMoss, Jr., et ux '

(3205 Summit Avenue) 11th Election District

FINDINGS OF FACT AND CONCLUSIONS OF LAW

\* \* \* \* \* \* \* \* \* \*

The Petitioners herein request a special exception to use the subject property for a residential kennel, consisting of fenced run areas in the rear yard of the property, for the housing of four to five dogs maintained as family pets and show dogs (AKC conformation and obedience), and a variance to permit property line setbacks of 2 inches, 13 feet, 37 feet and 111 feet all in lieu of the required 200 feet for a "kennel", as more particularly described in Petitioner's Exhibit 1.

The Petitioners appeared, testified and were represented by Georgia Lewis Leonhart, Esquire. Also appearing on behalf of the Petition was Christine DeMoss, Petitioners' daughter. The following persons appeared as Protestants: Dale L. & Kathie Thomas, Thomas Jenkins, Noradeen & Flor-Sence Lehrer, Nancy Webster, Andy & Eatty Gall, Janice Chason, Donald Crosby, Michele Goonan, Mary DeBaufre, and Mr. & Mrs. E. Bruzdoski.

Testimony indicated that the subject property, known as 3205 Summit Avenue, consists of 0.2965 acres zoned D.R. 5.5 and is improved with a single family dwelling, a garage and a shed. Petitioners have resided on the property since 1972. Petitioners testified they raise Alaskan Malamuts used exclusively as family pets and show dogs and have had 4 to 5 dogs on the property for about 5 years. Testimony indicated that as a result of a complaint filed in the Zoning Enforcement Division,

Petitioners were advised of their option to file a request for a special exception hearing to determine the appropriateness of a kennel on their property and further that variances would be required for the improvements in the rear yard of the property.

Testimony presented by the Petitioners indicated that the dogs are raised as show dogs as well as family pets; that while litters are generally large, the puppies are sold off by the time they reach 4 to 6 months. Petitioners testified that all the dogs are trained and that they are kept in the house or yard and not allowed to run freely. Petitioners have provided fenced-in run areas to exercise the dogs. Petitioners argued that in their opinion, the conditions delineated in Section 502.1 have been met. They further testified they cannot comply with the setback requirements of the zoning regulations as the width and length of the property are inadequate. Counsel argued that to require strict compliance would result in an unreasonable hardship to Petitioners.

Testimony presented by the Protestants indicated that they were concerned about the noise and odor generated by the number of dogs kept on the property. Noradeen Lehrer, the adjoining neighbor whose property line abuts the side for which a 2" setback variance has been requested, testified concerning the adverse impact the kennel has on her and the other family members residing on her property. Ms. Lehrer indicated the barking of the dogs and odors generated interfer with her enjoyment of her back yard and at times even disturbs her family when they are inside. Neighbors residing to the rear of the property on Uxbridge Road testified as to the numerous times they have been awakened during the night as a result of the dogs barking in addition to the adverse impact the dogs have had on their enjoyment of their property during the day.

After the hearing, it was agreed by all parties that a continued hearing should be held at a later date to allow Petitioners and Protestants time to work out their differences and to allow the Deputy Zoning Commissioner time to make a site inspection of the property and surrounding community.

At the hearing held on April 12, 1989 the Petitioners presented testimony and evidence which indicated they have taken measures to abate some of the noise. Mr. DeMoss testified he installed a kennel silencer, a device with a high-pitched sound that would immediately stop dogs from barking; and that he also purchased electronic collars for the dogs. Testimony further indicated that he asked his neighbors to call him in the event they had any complaints about the dogs and that none of his neighbors called.

Upon questioning, the Protestants admitted the noise had quieted immensely over the last few weeks. However, Protestants remain concerned that in the event Petitioners' request is granted, the problems they experienced in the past with the noise and odor from the dogs will recur.

It is clear that the B.C.Z.R. permits the use proposed in a D.R. 5.5 zone by special exception. However, it is equally clear that the proposed use would be detrimental to the primary uses in the vicinity, especially in light of the variances requested in this instance.

After reviewing all of the testimony and evidence presented, the conditions delineated in Section 502.1 of the B.C.Z.R. which must be met prior to the granting of a special exception, and a site inspection of the property and surrounding community, it appears that the special exception and variances should not be granted. In the opinion of the Deputy Zoning

- 2-

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. In fact, the Petitioner has not shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have an adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will be detrimental to the health, safety, or general welfare of the locality, and will be inconsistent with the purposes of the property's zoning classification, and inconsistent with the spirit and intent of the B.C.Z.R. if the special exception is granted.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special exception and variances should be denied.

PETITION FOR ZONING VARIANCE

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a

Variance from Section 421.1, 200 feet set back requirement, so as to allow

Petitioners to maintain a residential "kennel" (§101), consisting of

of 4-5 dogs for the purposes of maintenance as family pets and show (AKC conformation and obedience).

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons (indicate hardship or practical difficulty)

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

Georgia Lewis Leonhart, Esquire 3205 Summit Avenue

following reasons (indicate hardship or practical difficulty)

1. It is physically impossible for Peititioners to meet the 200 feet set back requirement, which would require property approximately 16000sq. feet in area (3.67 acres) for a kennel the size of a pinhead.

2. D.R.5.5. zoned residential properties are allowed to have residential kennels, by special exception, thereby allowing those property owners to participate in the sport of dog ownership and showing; healthy and beneficiall family activities. Failure to grant the variance would deprive this family of their primary hobby/family activity, causing unreasonable hardship. 3. The variance would not injure public health, safety or Property is to be posted and advertised as presented by Zoning Regulations. Welfare.

4 fenced in run areas in the rear yard of the property for the housing

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

CORNELIUS W. DEMOSS, TR.

Signature
Inner Harbor Center, 8th/Flr.

Attorney's Telephone No.: 301/625-5050

400 East Pratt Street /

Baltimore, Maryland 2/202

and the second and the second of the second

3205 Summit

City and State

Baltimore County this  $27^{\prime\prime\prime}$  day of April, 1989 that the Petition for Special Exception for a residential kennel, consisting of fenced run areas in the rear yard of the subject property, to house four to five dogs maintained as family pets and show dogs (AKC conformation and obedience), and the Petition for Zoning Variance to permit property line setbacks of 2 inches, 13 feet, 37 feet and 111 feet all in lieu of the required 200 feet for a "kennel", in accordance with Petitioner's Exhibit 1, be and are hereby DENIED.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for

( MNa farawia ANN M. NASTAROWICZ Deputy Zoning Commissioner for Baltimore County

Zoning Description

Beginning on the West side of Summit Ave. at the distance of 823 ft. south of Homeland Ave.

Being Lot 3 in the Resubdivision of Lots 57,58,59 of Home Acres. Book 17 folio 69. Also Known as 3205 Summit Ave. in the 11th Election District

Baltimore County Zoning Commissioner Office of Plauning & Zoning Towson, Maryland 21204 (301) 887-3353 J. Robert Haines
Zoning Commissioner

April 27, 1989

Dennis F. Rasmussen

Baltimore, Maryland 21202 RE: PETITION FOR SPECIAL EXCEPTION AND ZONING VARIANCE W/S Summit Avenue, 823' S of Homeland Avenue (3205 Summit Avenue) 11th Election District - 6th Councilmanic District Cornelius W. DeMoss, Jr., et ux - Petitioners

Dear Mr. & Mrs. DeMoss:

Case No. 89-226-XA

Georgia Lewis Leonhart, Esquire

Inner Harbor Center, 8th Floor

400 East Pratt Street

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Exception and Zoning Variance have been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

very truly yours,

and M Nastrany

ANN M. NASTAROWICZ Deputy Zoning Commissioner for Baltimore County

cc: All Protestants

People's Counsel

Inner Harbor Center, 8th Flr. Attorney's Telephone No.: (301) 625-5050 400 East Pratt Street (625-5050) Address Phone No.
Baltimore, Maryland 21202
ORDERED By The Zoning Commissioner of Baltimore County, this day

PETITION FOR SPECIAL EXCEPTION & VARIANCE

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the

a residential kennel, consisting of fenced herein described property for

run areas in the rear yard of the property, for the housing of

Property is to he nosted and tised as prescribed by Zoning Regulations.

4-5 dogs for the purposes of maintenance as family pets and show (AKC conformation and obedience). And a Variance from Sect. 421.1 to (AKC conformation and obedience). allow "kennel" setbacks of 2 inches, 13 ft.,

bove Special Exception advertising, posting, etc., upon filing d are to be bound by the zoning regulations and restrictions to the Zoning Law for Baltimore County.

Cornelius W. DeMoss, Jr.

Tarah De Moss

3205 Summit Avenue 661-2773

Name, address and phone number of legal owner, con-

tract purchaser or representative to be contacted Georgia Lewis Leonhart, Esq.

Baltimore, Maryland 21234

(Type or Print Name)

Legal Owner(s):

Sarah DeMoss

City and State

I/We do solemnly declare and affirm,

which is the subject of this Petition.

under the penalties of perjury, that I/we are the legal owner(s) of the property

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

37 ft. and 111 ft. in lieu of the required 200 ft.

of \_\_\_\_\_, 19 58, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation through-

out Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the \_\_\_\_\_ day of Dec\_\_\_\_\_, 19 88, at 2 o'clock

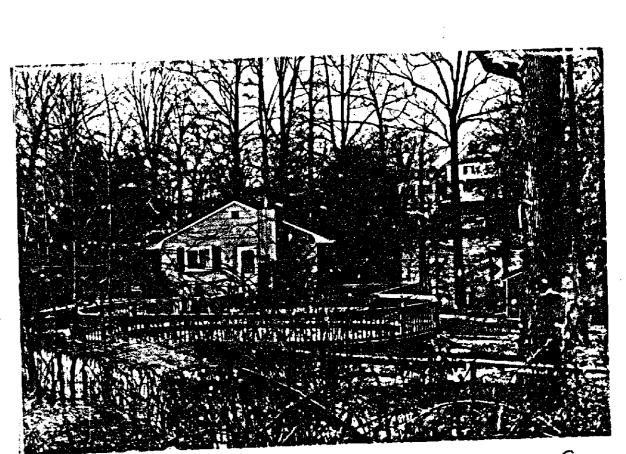
Reset for 2/23/89 at 9:30a.m. J. Robert Haines

Control to 4/12/89 at 2100 p.m.

Zoning Commissioner of Baltimore County.

#125

ADJOINING BACK YARDS

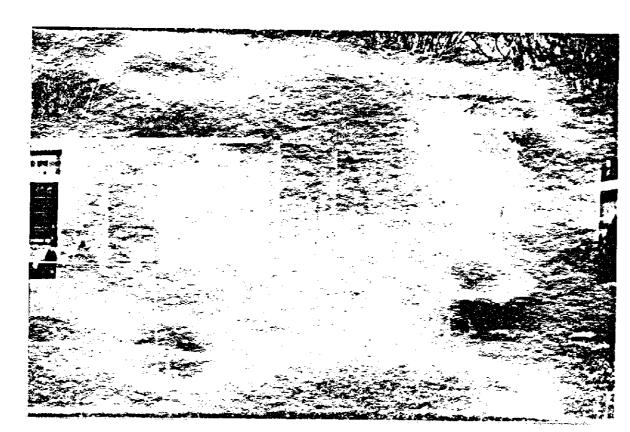


DeBaufre Property

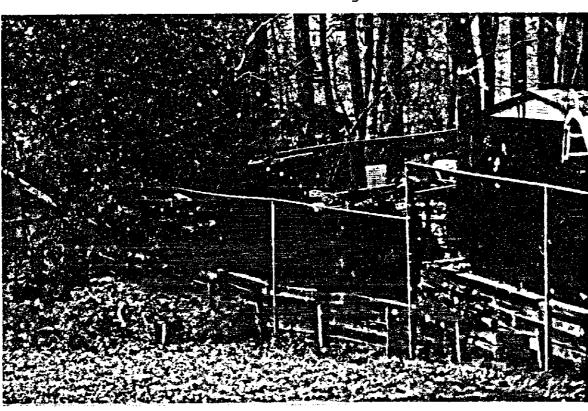


Thomas Property

DeMoss Property



Giant Garage



Behind Garage



ADJOINING BACK YARDS

Keith Property

Hipler Property

Inner Harbor Center, 8th Floor 400 East Pratt Street 625-5050 Baltimore, Maryland 21202 ORDERED By The Zoning Commissioner of Baltimore County, this \_\_\_\_\_ of \_\_\_\_\_\_, 19\_\_\_\_, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_ o'clock

Name, address and phone number of legal owner, con-

tract purchaser or representative to be contacted

Georgia Lewis Leonhart, Esq.

I/We do solemnly declare and affirm, ander the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

CORNELIUS W. DE MASS, TR.

Canelius W. De num Jr.

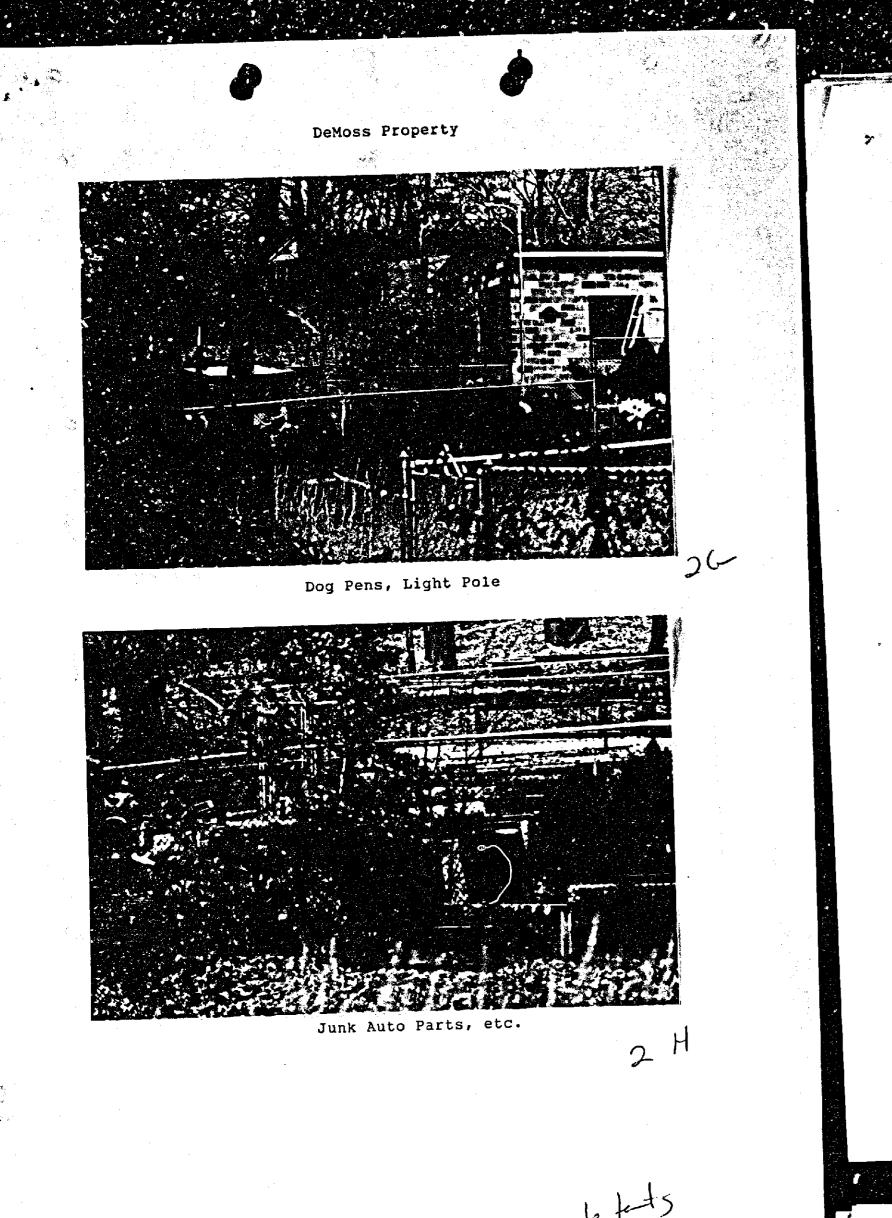
Gual De Mass

SARAH DE MOSS

WYO Sloppool Baltimore, Maryland 21234

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Zoning Commissioner of Baltimore County.



February 16, 1989

111 W. Chesapeake Ave. Towson, MD 21204

Re: Case Number 89-226-XA

I regret that my work schedule and other considerations make it impossible for me to attend the hearing on this matter.

I strongly oppose the idea of granting a special exception to Mr. DeMoss for the purpose of operating a dog kennel. The zoning regulations are entirely correct in that dog kennels are not appropriate in this type residential community.

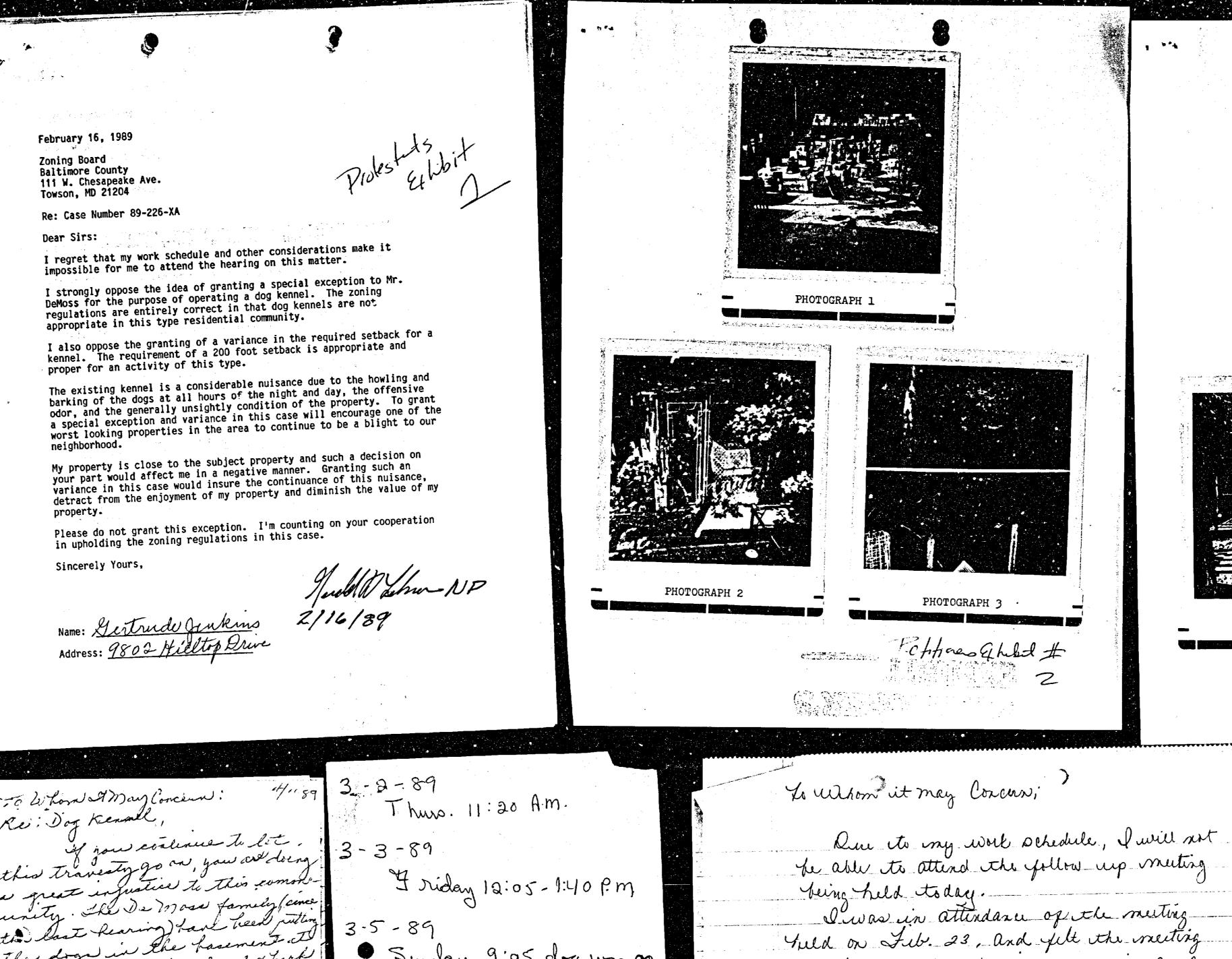
I also oppose the granting of a variance in the required setback for a kennel. The requirement of a 200 foot setback is appropriate and proper for an activity of this type.

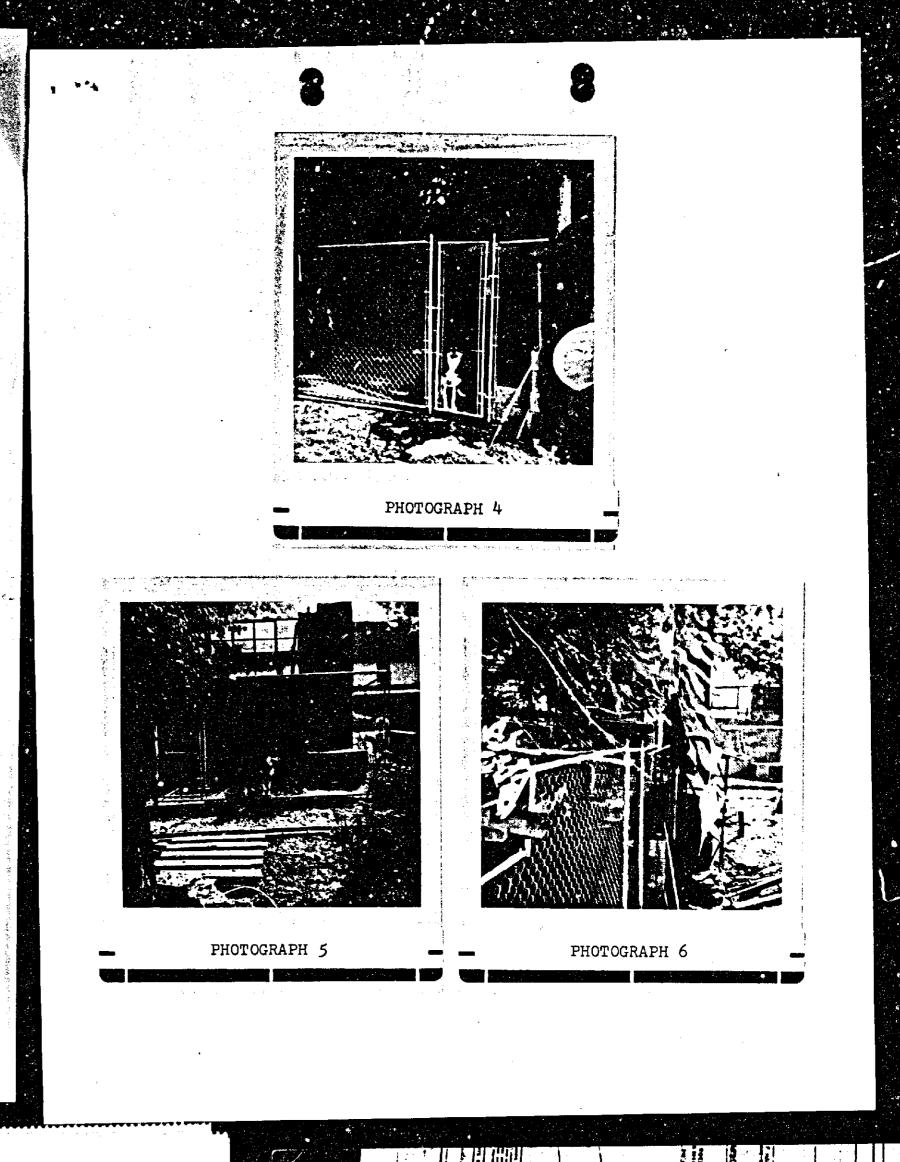
The existing kennel is a considerable nuisance due to the howling and barking of the dogs at all hours of the night and day, the offensive odor, and the generally unsightly condition of the property. To grant a special exception and variance in this case will encourage one of the worst looking properties in the area to continue to be a blight to our

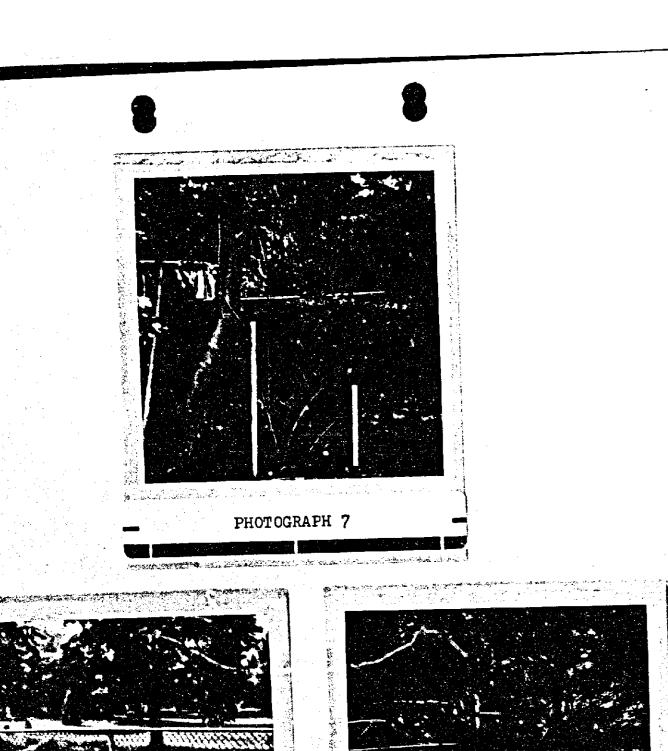
My property is close to the subject property and such a decision on your part would affect me in a negative manner. Granting such an variance in this case would insure the continuance of this nuisance, detract from the enjoyment of my property and diminish the value of my

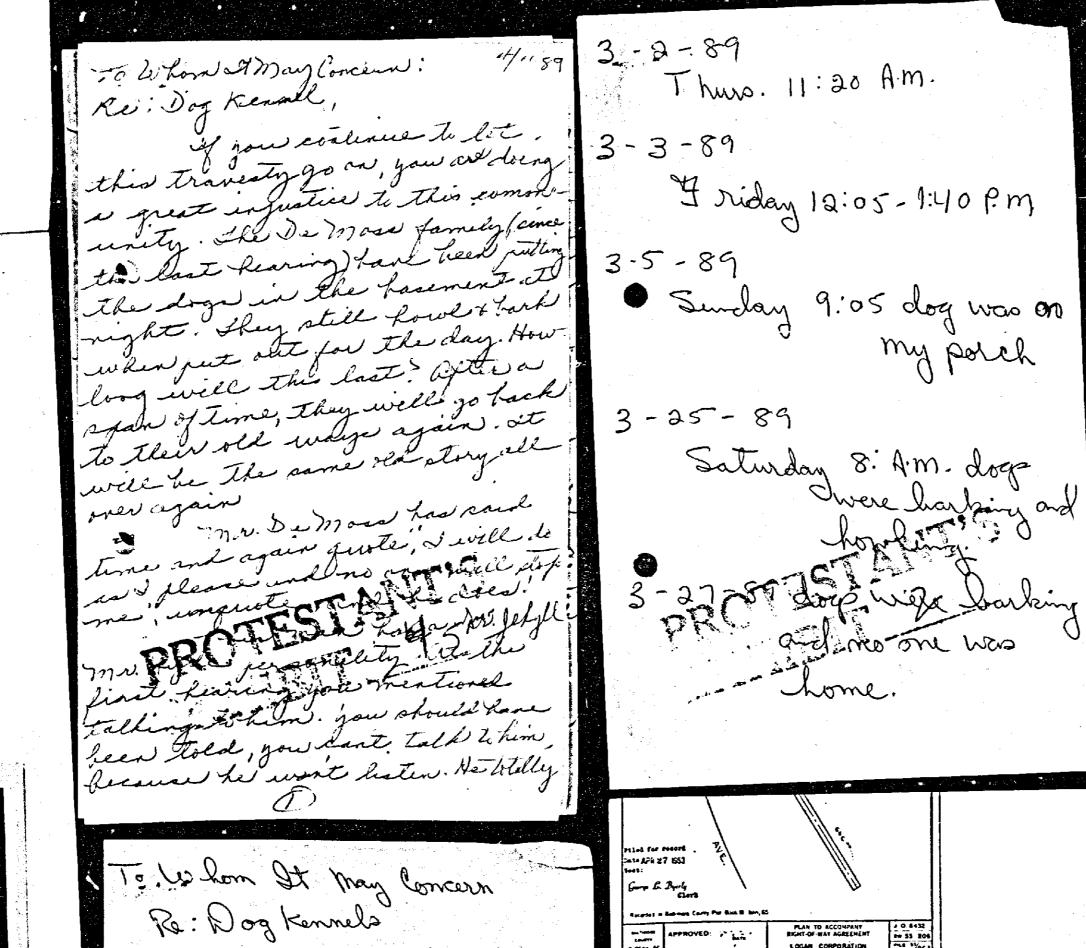
Please do not grant this exception. I'm counting on your cooperation in upholding the zoning regulations in this case.

Zoning Board Baltimore County







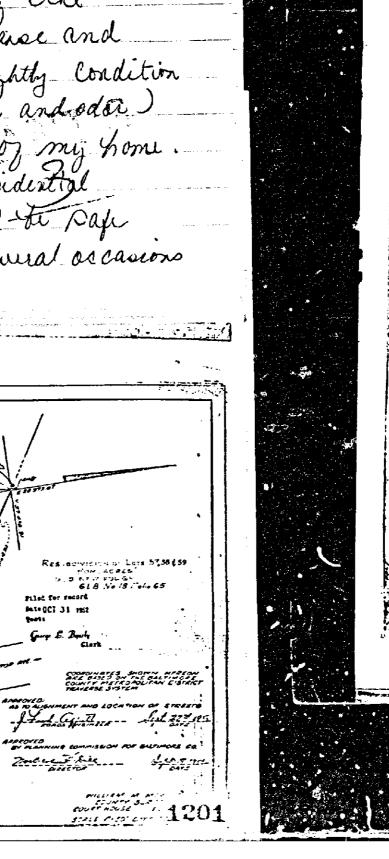


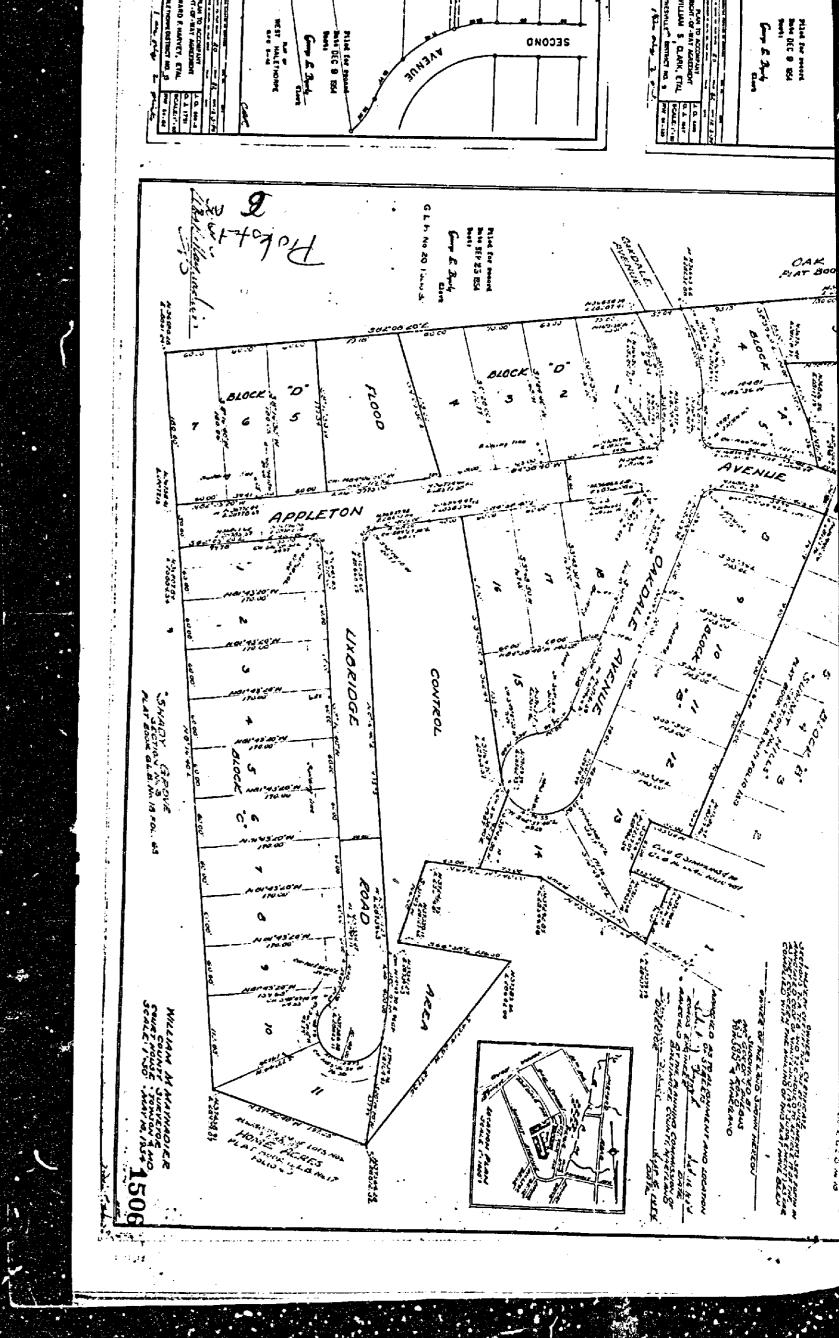
is a gair comment of the impact it Las during the summer months when our windows are open. although it is sometimes bothersome to me, that is not my main concern. my concur, is that as a property owner. In an area of rapid development, where my property realise is increasing the approval og a dog Kensel liceuse and variance (Considering the unsightly Condition of the property; Dog Cages, mess and odder) would only decrease the statue of my home. I thought I moved issto a residential neighborhood where it would to pape to raise my family. On several os casions

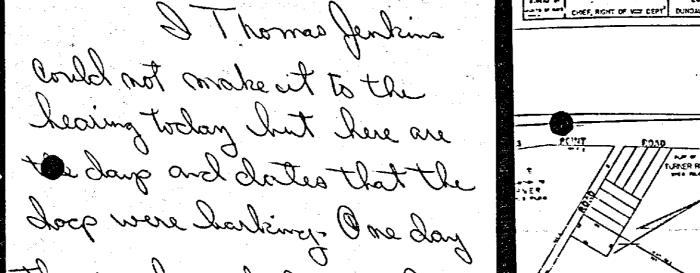
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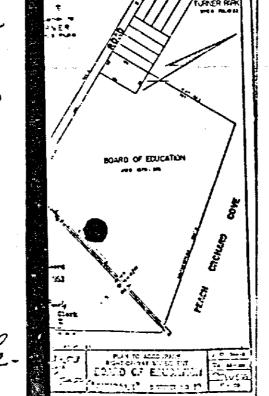
to many of the neighbors, I don't feel it

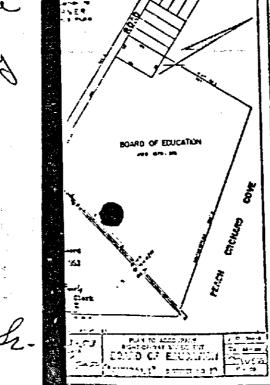
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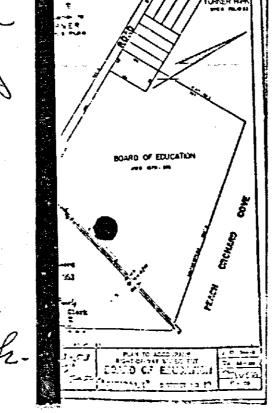


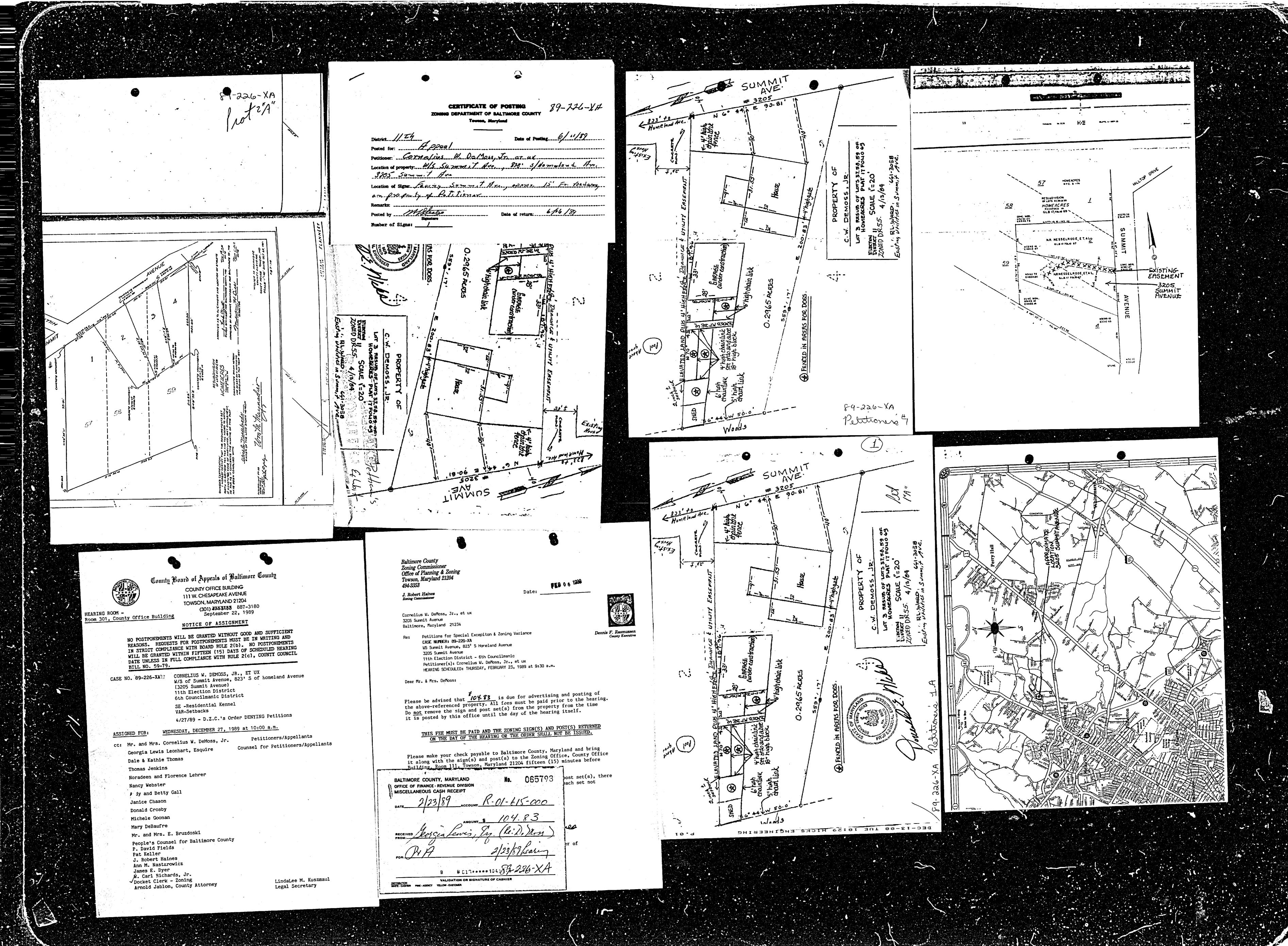












GEORGIA LEWIS LEONHART ATTORNEY AT LAW INNER HARBOR CENTER EIGHTH FLOOR 400 EAST PRATT STREET BALTIMORE, MARYLAND 21202

OF COUNSEL ROBERT A. SCHMUHL SANDRA R. BULLINGTON

May 25, 1989

J. Robert Haines, Zoning Commissioner Baltimore County Office of Planning & Zoning Towson, Maryland 21204

Attention: Ms. Charlotte Radcliffe

Re: PETITION FOR SPECIAL EXCEPTION AND ZONING VARIANCE w/s Summit Avenue, 823'S of Homeland Avenue (3205 Summit Avenue) 11th Election District - 6th Councilmanic District Cornelius W. DeMoss & Sarah E. DeMoss - Petitioners Case Number: 89-226-XA

Notice of Appeal from Decision of Deputy Zoning Commissioner

Dear Commissioner Haines:

I, Georgia Lewis Leonhart, hereby enter my appearance as counsel for Petitioners/Appellants in the above-referenced matter.

An Appeal to the County Board of Appeals is hereby requested, on behalf of Petitioners in the above-referenced matter, from the Order entered Nastarowicz, Deputy April 27, 1989.

BALTIMORE COUNTY, MARYLAND CFFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT

DISTRIBUTION PROF. ACCORD VELLOW-CUSTOMER

TELEPHONE: 301-625-5050

TELECOPIER: 301-727-5250

TELEX: 87681 HQ BAL

ROPETTICOG PROMITE A CHORGA LE NICHT

CORNELIUS UN MOSS

CORNELIUS UN MOSS

190501 3072F WALIDATION OR SIGNATURE OF CASHIER

ZONING OFFICE

Dennis F. Rasmussen

payable to Baltimore

10.00, to cover the

e S. Sonbark

wis Leonhart

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204 (301) 887-3353 J. Robert Haines Zoning Commissioner

FEB 2 4 1989

Baltimore County Zoning Office

NOTICE OF CONTINUANCE

CASE NUMBER: PETITIONER:

89-226-XA

Cornelius W. DeMoss, Jr. LOCATION: 3205 Summit Avenue

HEARING OF THE ABOVE MATTER, WHICH BEGAN ON FEBRUARY 23, 1989, WILL CONTINUE ON WEDNESDAY, APRIL 12, 1989 at 2:00 p.m.

THIS CONTINUED HEARING WILL TAKE PLACE IN ROOM 106 OF THE COUNTY

OFFICE BUILDING , 111 W. Chesapeake Avenue, Towson, Maryland 21204.

Copies to:

Florence Lehrer

Mr. & Mrs. E. Bruzdoski

Mary DeBaufre

Georgia Lewis Leonhart, Esq. Cornelius W. DeMoss, Jr., et ux Dale L. Thomas Thomas Jenkins Noradeen Lehrer Kathie Thomas Nancy Webster Betty L. Gall J. M. Chason Donald Crosby Michele Goonan

CERTIFICATE OF PUBLICATION

TOWSON, MD., February 3, 1989 The Zoring Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Bullding, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows: THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on Petitions for Special Exception & Zoning Variance ton & Zoning Variance Case number: 80-226-XA WS Summit Avenue, 823' 5 Homeland Avenue 3205 Summit Avenue 31th Election District 6th Councilmanic Fettioner(s):

Comelius W. DeMoss, Jr., et ux. Hearing Date: Thursday, Feb. 23, 1989 at 9:30 a.m. February 2 , 19.89. NORTHEAST TIMES

THE JEFFERSONIAN,

PO 09612 neg, M 25234 co 89226XA pice \$89.83

Special Exception: A residential kennel, consisting of a fenced run area in the rear of the property, for the housing of 4 to 5 dogs for the purposes of maintenance as family pets and show (AKC conformation and obedience).

Varianc to allow "terme!" setbecks of 2 inches, 13 R., 37 R., and 111 ft. in lieu of the required 200 ft.

200 ft.

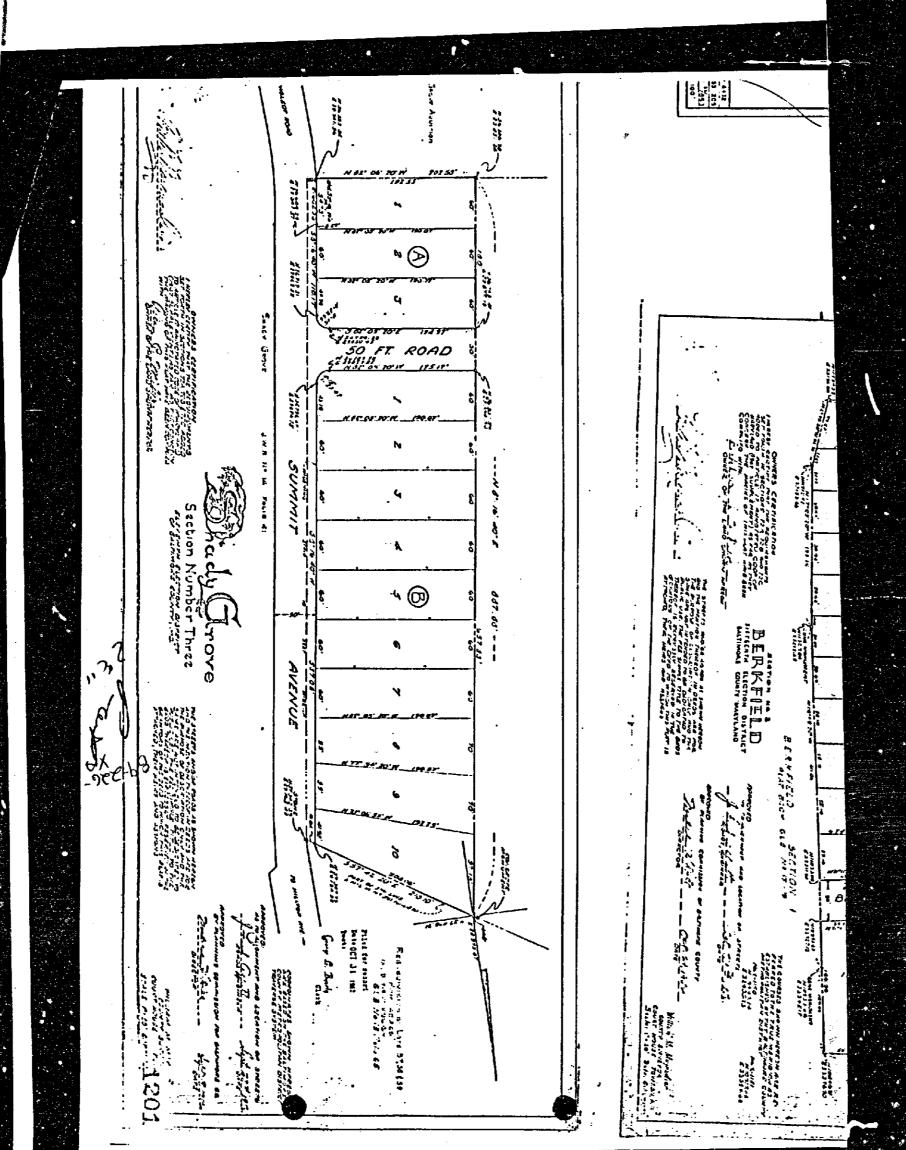
In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuence of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINE

Number of Signs:

89-7-76-XA CERTIFICATE OF POSTING

Date of Posting 2/2/89 Posted for: Spacial Exception + Voniance Petitioner: Cornelius W. Do Muss, Fr., et of Location of property: W/S Summer! /fry 873' 5/ Home land fry Location of Signer Facing Summit Any copy 20' Fr. 200 Lucy. Date of return: 2/3/89



. RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE ZONING COMMISSIONER PETITION FOR VARIANCE OF BALTIMORE COUNTY W/S Summit Ave., 823' S Homeland: Ave. (3205 Summit Ave.) 11th Election District 6th Councilmanic District

CORNELIUS W. DeMOSS, JR., et ux, Case No. 89-226-XA Petitioners

:::::: ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the abovecaptioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

People's Counsel for Baltimore County

Peter Max Zimmerman Deputy People's Counsel Room 304, County Office Building Towson, Maryland 21204 494-2188

I HEREBY CERTIFY that on this 25th day of November, 1988, a copy of the foregoing Entry of Appearance was mailed to Georgia Lewis Leonhart, Esquire, Inner Harbor Center, 8th Floor, 400 E. Pratt St., Baltimore, MD 21202, Attorney for Petitioners.

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

DATE: September 23, 1988 TO: James E. Dyer Zoning Supervisor

FROM: James H. Thompson Zoning Enforcement Coordinator

RE: Item No. 125 (if known) Petitioner: DeMoss (if known)

VIOLATION CASE # C-89-39

LOCATION OF VIOLATION 3205 Summit Avenue

DEFENDANT Cornelius W. DeMoss, Jr.

ADDRESS 3205 Summit Avenue Baltimore, MD 21234

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following persons:

Norlene Lehere

3203 Summit Avenue Baltimore, Maryland 21234

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Zoning Enforcement Coordinator, so that the appropriate action may be taken relative to the violation case.



Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 494-3353

J. Robert Haines

NOTICE OF HEARING



Dennis F. Rasmussen County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petitions for Special Excepiton & Zoning Variance CASE NUMBER: 89-226-XA WS Summit Avenue, 823' S Homeland Avenue 3205 Summit Avenue 11th Election District - 6th Councilmanic Petitioner(s): Cornelius W. DeMoss, Jr., et ux HEARING SCHEDULED: THURSDAY, FEBRUARY 23, 1989 at 9:30 a.m.

Special Exception: A residential kennel, consiting of a fenced run area in the rear of the property, for the housing of 4 to 5 dogs for the purposes of maintenance as family Variance to allow "kennel" setbacks of 2 inches, 13 ft., 37 ft., and 111 ft. in lieu of the required 200 ft.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

1. Polout frince . ROBERT HAINES

Zoning Commissioner of Baltimore County Cornelius W. DeMoss, Jr., et ux Georgia Lewis Leonhart, Esq. Mr. Dale Thomas

2/22/89- Telephone Mrs. Letire to delvise of hearing date; the advised she was aware of date. Ronald Decker, Esq.

GEORGIA LEWIS LEONHARD ATTORNEY AT LAW INNER HARBOR CENTER EIGHTH FLOOR 400 EAST PRATT STREET JAN 18 1989 BALTIMORE, MARYLAND 21202

TELEPHONE: 301-625-5050 TELECOPIER: 301-727-5250 TELEX: \$7681 HQ BAL

ZONNG CITTONOBERT A. SCHMUHL

January 13, 1989

G. G. Stephens, Docket Clerk Baltimore County Office of Planning and Zoning 111 West Chesapeake Avenue, Room 111 Towson, Maryland 21204

Re: CASE NO.: 89-226-XA HEARING DATE: February 23, 1989

Dear Ms. Stephens:

In response to your letter of December 14, 1988, and in accordance with our telephone conversation of this morning, enclosed please find check no. 511, payable to Baltimore County in the amount of \$84.00.

Additionally, please find enclosed three copies of the site plan submitted on behalf of my clients, now complete with the required engineer's seal. The seal was provided, following review of the plan and subject property, by Hick's Engineering Company, Inc., Civil Engineers, 200 East Joppa Road, Suite 402, Towson, Maryland 21204 (by Donald E. Hicks).

This shall further confirm that the hearing on this matter has been rescheduled for February 23, 1989. Mr. DeMoss shall promptly dismantle and return to your office the sign previously posted upon his property.

If you have any questions, please feel free to contact me. Thank you for your assistance and cooperation.

Very truly yours, Georgia Lewis Leonhart

GLL:jpp enclosures

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 494-3353 J. Robert Haines

Zoning Commissioner

December 14, 1988

Georiga Lewis Leonhart, Esq. Inner Harbor Center, 8th Floor 400 East Pratt Street Baltimore, Maryland 21202



Re: Zoning Hearing Postponemet Request: CASE NUMBER: 89-226-XA HEARING DATE: December 14, 1988

Dear Ms. Leonhart:

This to confirm postponement of the above captioned hearing.

Please be advised that although the matter did not go forward on the above date, advertising and posting fees incurred relative to this date must be paid.

Therefore, kindly forward your check in the amount of \$84.00 to this office via return mail.

The case will be rescheduled for a hearing date sometime in early February of 1989 and further advertising and posting fees will be billed to you. As soon as a date is set, this office will notify your office.

Thank you for your kind cooperation.

Very truly yours,

G. G. Stephens Docket Clerk 887-3391

\*IF PHASE II OF SNOW EN ENCY PLAN IS IN EFFECT ON THIS DATE, CASE WILL BE RESCHEDULED. CALL 494-3391 or 887-3391 TO CONFIRM DATE.

Baltimore County Zoning Commissioner Cifice of Planning & Zoning Towson, Maryland 21204 494-3353

Mr. & Mrs. Cornelius W. DeMoss, Jr. 3205 Summit Avenue Baltimore, Maryland 21234 Re: Petitions for Special Exception and Zoning Variance

CASE NUMBER: 89-226-XA WS Summit Avenue, 823'S Homeland Avenue (3205 Summit Avenue) 11th Election District - 6th Councilmanic Petitioner(s): Cornelius W. DeMoss, Jr., et ux HEARING SCHEDULED: WEDNESDAY, DECEMBER 14, 1988 at 2:00

Dear Mr. & Mrs. DeMoss:

Please be advised that 84.00 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring the sign(s) and post(s) to the Zoning Office, County Office

BALTIMORE COUNTY, MARYLAND ost set(s), there OFFICE OF FINANCE - REVENUE DIVISION ach set not MISCELLANEOUS CASH RECEIPT 12/14/88 Hearing Late

Zoning Commissioner
Office of Planning & Zoning Towson, Maryland 21204 494-3353

J. Robert Haines

NOTICE OF HEARING

October 31, 1988



The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property

identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows: Petitions for Special Exception and Zoning Variance

CASE NUMBER: 89-226-XA WS Summit Avenue, 823' S Homeland Avenue (3205 Summit Avenue) 11th Election District - 6th Councilmanic Petitioner(s): Cornelius W. DeMoss, Jr., et ux HEARING SCHEDULED: WEDNESDAY, DECEMBER 14, 1988 at 2:00 p.m.\*

Special Exception: A residential kennel, consisting of a fenced run area in the rear of the property, for the housing of 4 - 5 dogs for the purposes of maintenance as family pets and show (AKC conformation and obedience). Variance to allow "kennel" setbacks of 2 inches, 13 ft. 37 ft. and 111 ft. in lieu of the required 200 ft.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this entertain any request for a stay of the issuance of salu permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

Polont flairea J. ROBERT HAINES Zoning Commissioner of

cc: Cornelius W. DeMoss, Jr., et ux

Baltimore County

IN BALTIMORE COUNTY BY 8:30 a.m. ON THE DATE OF THE ABOVE HEARING, SUCH HEAR-ING WILL BE POSTPONED AND RESCHEDULED TENTATIVELY FOR THURSDAY, JANUARY 12, 1989. PLEASE TELEPHONE DOCKET CLERK AT 494-3391

Baltimore County Zoning Commissioner
Office of Planning & Zoning Towson, Maryland 21204 494-3353 J. Robert Haines

September 23, 1988



Dennis F. Rasmussen
County Executive

Georgia L. Leonhart, Esquire Inner Harbor Center, 8th Floor 400 East Pratt Street Baltimore, Maryland 21202

RE: Petition for Special Exception and Zoning Variance, Item #125 3205 Summit Avenue 11th Election District

Dear Ms. Leonhart:

Subsequent to your September 22nd appointment in this office, Mr. Dyer reviewed this matter with J. Robert Haines, office, Mr. Dyer reviewed this matter at the Haines, sealed Zoning Commissioner of Baltimore County. Per Mr. Haines, sealed site plans must be presented by the hearing date. If you have any questions please do not hesitate to

Yours truly,

Planning & Zoning Assoc. III

JJS, Jr.:dt cc: File

CERTIFICATE OF PUBLICATION

TOWSON, MD., Movember 16, 1988 THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on Mov. 16, 17 ..., 1988.

> THE JEFFERSONIAN, THE NORTHEAST TIMES

PO 05843 M20445 case # 89-26-XA

ZONING DEPARTMENT OF BALTIMORE COUNTY 89-776-XA

District // The Posted for: Special Exc	Date of Posting 11/26/88
/ / / / / / / / / / / / / / / /	, r ///,
Petitioner:	emmit Are, 823' 5/Home lond Are
Location of property: W/S 3	A MALL LA A COLOR MAN
2205 Sun 7 1/V	
Roth Fa	cing Summit Are, approx, 12 fr. wodwo
Location of Signs: 1007	n 1'1'
On freper by g	K. 11/10774
Posted by Make	12/2/87
Remarks:	######################################

PROTESTANT(S) SIGN-IN SHEET

NAME ,	ADDRESS 0
Dale F Themas	1719 Ux bridge Rd
Thomas Jenkins	3200 Summit Col
Dowler John	3203 Summid fre
Milie Olanar	9719 Whodge Rd
Kayan Walerta	9701 Ux bridge Kil
Jety N. Jall.	9717 ashinge RD
My Mack	1715 appropriate Rd
June M Chain	3203 Summit AUE
Donald Crosby	3001 Summit PUE.
Michile Goman	3203 Summit are
(Danie School )	9721 Whredge (C)
Mr. and Mrs. & Brensashe	3114 Summit Cove
U	
	<b>→</b> 、

PRINT CLEARLY PETITIONER(S) S	SIGN-IN SHEET
	ADDRESS
orgia Lewis Leonhart Esq.	Baltimue, Dd. 21302.
hnelius (U. Derioss  hmstine De Moss	3305 Summit Avenue. Baltimore, Md. 21234.

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204

Your petition has been received and accepted for filing this

\_\_ day of \_\_October \_\_\_\_, 1988.

Chairman, Zoning Plans Advisory Committee

Baltimore County Department of Public Works Bureau of Traffic Engineering Courts Building, Suite 405 Towson, Maryland 21204

Petitioner's

October 28, 1988



Mr. J. Robert Haines Zoning Commissioner County Office Building Towson, Maryland 21204

The Bureau of Traffic Engineering has no comments for items number 107, 112, 115, 116, 117, 118, 119, 120, 122, 123, 125, 126, and 127.

Very truly yours,

muchail Malami -Michael S. Flanigan Engineering Associate

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

DATE: September 23, 1988

TO: James E. Dyer Zoning Supervisor

J. .

FROM: James H. Thompson Zoning Enforcement Coordinator

RE: Item No. 125 (if known) Petitioner: DeMoss (if known)

VIOLATION CASE # C-89-39

LOCATION OF VIOLATION 3205 Summit Avenue

DEFENDANT Cornelius W. DeMoss, Jr. ADDRESS 3205 Summit Avenue Baltimore, MD 21234

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following persons:

Norlene Lehere

3203 Summit Avenue Baltimore, Maryland 21234

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Zoning Enforcement Coordinator, so that the appropriate action may be taken relative to the violation case.

### BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

COUNTY OFFICE BLDG. 111 W. Chesapeake Ave. Towson, Maryland 21204

Bureau of

Department of Traffic Engineering

Health Department

Project Planning

Building Department

Board of Education

Industrial

Zoning Administration

Georgia L. Leonhart, Esquire Inner Harbor Center, 8th Floor 400 East Pratt Street Baltimore, Maryland 21202

RE: Item No. 125, Case No. 89-226-XA Petitioner: Cornelius W. DeMoss, Jr., et ux Petition for Special Exception and Variance

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

Zoning Plans Advisory Committee Chairman

December 12, 1988

Enclosures

Baltimore County Fire Department Towson, Maryland 21204-2586 494-4500

October 3, 1988 Paul H. Reincke Chief

J. Robert Haines Zoning Commissioner Office of Planning and Zoning Baltimore County Office Building Towson, MD 21204

Re: Property Owner: Cornelius W. DeMoss, Jr., et ux

Location: W/S Summit Avenue, 823' S. of Homeland avenue 3205 Summit Avenue Item No.: 125

Zoning Agenda: Meeting of 10/4/88

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- ( ) 1. Fire hydrants for the referenced property are required and shall be located at intervals or \_\_\_\_ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- ( ) 2. A second means of vehicle access is required for the site.

( ) 3. The vehicle dead end condition shown at \_

- EXCEEDS the maximum allowed by the Fire Department.
- ( ) 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- ( ) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.
- ( ) 6. Site plans are approved, as drawn.
- (x) 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: Cat I self folly 10-3 for Approved:

Planning Group

Special Inspection Division

Noted and
Approved:

Fire Prevention Bureau

# BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

December 12, 1988

J. Robert Haines TO Zoning Commissioner

Pat Keller, Deputy Director FROM Office of Planning and Zoning

C.W. DeMoss, Jr. SUBJECT Zoning Petition No. 89-226-XA

The applicant is requesting a special exception and variance to provide a kennel for the housing of 4-5 dogs for AKC conformation and obedience. In reference to the request staff, provides the following:

- The applicant's site plan is prepared in a manner that may be misleading. Inaccuracies of dimension and layout create some confusion as to actual areas for runs, kennels, etc. In particular, neighboring properties are not clearly displayed and marked on the site plan.
- Staff concerns regarding this particular use (dog kennels) within residential zones center on issues of noise, proliferation or expansion of use, layout of site in regard to kennels and runs, hours of operation of use, layout of side in logard of minimum and the side (if any). In addition, of commercial use (if any), and lighting of site (if any). any approvals of this site should be specifically limited to the applicant's request and no subsequent users.

Based upon the analysis conducted and information provided, staff recommends denial of the variances requested, and provides no comment on the request for special exception due to inadequate information.

PK/sf

## BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

J. Robert Haines TO Zoning Commissioner

Pat Keller, Deputy Director FROM Office of Planning and Zoning

C.W. DeMoss, Jr.

Zoning Petition No. 89-226-XA

The applicant is requesting a special exception and variance to provide a kennel for the housing of 4-5 dogs for AKC conformation and obedience. In reference to the request staff, provides the following:

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PK/sf

Appeal - Case No. 89-226-XA Cornelius W. DeMoss, et ux - Petitioners June 2, 1989

> Dale & Kathie Thomas, 9719 Uxbridge Road, Baltimore, MD 21234 Thomas Jenkins, 3200 Summit Avenue, Baltimore, MD 21234 Noradeen & Florence Lehrer, 3203 Summit Ave., Baltimore, MD 21234 Nancy Webster, 9701 Uxbridge Road, Ealtimore, MD 21234 Andy & Betty Gall, 9717 Uxbridge Road, Baltimore, MD 21234 Janice Chason, 9715 Uxbridge Road, Baltimore, MD 21234 Donald Crosby, 3203 Summit Avenue, Daltimore, MD 21234 Michele Goonan, 3204 Summit Avenue, Baltimore, MD 21234 Mary DeBaufre, 9721 Uxbridge Road, Baltimore, MD 21234 Mr. & Mrs. E. Bruzdoski, 3114 Summit Avenue, Baltimore, MD 21234 People's Counsel of Baltimore County Rm. 304, County Office Bldg., Towson, Md. 21204

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353 J. Robert Haines Zoning Commissioner



Baltimore County Board of Appeals County Office Building, Room 315 Towson, Maryland 21204

RE: Petition for Special Exception & Zoning Variance W/S of Summit Avenue, 823' S of Homeland Avenue (3205 Summitt Avenue) 11th Election District, 6th Councilmanic District CORNELIUS W. DEMOSS, JR., ET UX - Petitioners Case No. 89-226-XA

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on May 30, 1989 by Georgia Lewis Leonhart, Attorney on behalf of the Petitioners. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

L. Robert Springe

Enclosures

cc: Mr. & Mrs. Cornelius W. DeMoss, Jr. & Christine DeMoss 3205 Summitt Avenue, Baltimore, Maryland 21234

Georgia Lewis Leonhart, Inner Harbor Center, Eighth Floor 400 East Pratt Street, Baltimore, Maryland 21202

- 9- HIL 68



People's Counsel for Baltimore County P. David Fields Pat Keller J. Robert Haines Ann M. Nastarowicz James E. Dyer W. Carl Richards, Jr. Docket Clerk - Zoning Arnold Jablon, County Attorney 12/27/89 - Notice of Postponement and Reassignment sent to above parties advising case has been reset for January 3, 1990 at 9:00 a.m. COUNTY OFFICE BUILDING 111 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204 0815-788 Ø\$P\$XXQXX (105) HEARING ROOM -Room 301, County Office Bldg. December 27, 1989 NOTICE OF POSTPONEMENT AND REASSIGNMENT NO POSIPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79. CASE NO. 89-226-XA CORNELIUS W. DEMOSS, JR., ET UX W/s of Summit Ave., 823' S of Homeland Ave. (3205 Summit Ave.) 11th Election District 6th Councilmanic District SE -Residential Kennel VAR-setbacks 4/27/89 - D.Z.C.'s Order DENYING Petitions. which was scheduled for hearing on December 27, 1989 has been POSTPONED on the record and with agreement of Counsel as to date and time has been WEDNESDAY, JANUARY 3, 1990 at 9:00 a.m. Appellant/Petitioners cc: Mr. and Mrs. Cornelius Demoss Counse! for Appellants/Petitioners Georgia L. Leonhart, Esquire Dale & Kathie Thomas Thomas Jenkins Noradeen and Florence Lehrer Nancy Webster Andy and Betty Gall Janice Chason Donald Crosby Michele Goonan Mary DeBaufre Mr. and Mrs. E. Bruzdoski People's Counsel for Baltimore County P. David Fields Pat Keller J. Robert Haines Ann M. Nastarowicz

LindaLee M. Kuszmaul

Legal Secretary

James E. Dyer

W. Carl Richards, Jr.

Docket Clerk - Zoning

Arnold Jablon, County Attorney

9/22/89 - Following parties notified of hearing set for December 27, 1989 at 10:00 a.m.:

Dale & Kathie Thomas

Thomas Jenkins

Nancy Webster

Janice Chason

Donald Crosby

Michele Goonan

Mary DeBaufre

Andy & Betty Gall

Noraleen

Mr. and Mrs. Cornelius DeMoss, Jr.

George Lewis Leonhart Esquire

Noradeen & Florence Lehrer

Mr. and Mrs. E. Bruzdoski

County Monrd of Appeals of Baltimore COUNTY OFFICE BUILDING 111 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204 December 27, 1989 unty Office Bldg. NOTICE OF POSTPONEMENT AND REASSIGNMENT NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79. CASE NO. 89-226-XA CORNELIUS W. DEMOSS, JR., ET UX W/s of Summit Ave., 823' S of Homeland Ave. (3205 Summit Ave.) 11th Election District 6th Councilmanic District SE -Residential Kennel 4/27/89 - D.Z.C.'s Order DENYING Petitions. VAR-setbacks which was scheduled for hearing on December 27, 1989 has been POSTPONED on the record and with agreement of Counsel as to date and time has been REASSIGNED FOR: WEDNESDAY, JANUARY 3, 1990 at 9:00 a.m. Appellant/Petitioners Counsel for Appellants/Petitioners cc: Mr. and Mrs. Cornelius Demoss Georgia L. Leonhart, Esquire Dale & Kathie Thomas Thomas Jenkins Noradeen and Florence Lehrer Nancy Webster Andy and Betty Gall Janice Chason Donald Crosby Michele Goonan Mary DeBaufre People's Counsel for Baltimore County Jummen Than P. David Fields Pat Keller J. Robert Haines Ann M. Nastarowicz LindaLee M. Kuszmaul James E. Dyer W. Carl Richards, Jr. Legal Secretary Docket Clerk - Zoning Arnold Jablon, County Attorney The second secon

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

CASE NO. 89-226-XA CORNELIUS W. DEMOSS, JR., ET UX
W/s of Summit Ave., 823' S of Homeland Ave.

11th Election District

SE-Residential Kennel

Baltimore County Office of Planning and Zoning

Place: Room 301, County Office Building.

County Board of Appeals of Baltimore County,

TO: Zoning Inspector Leonard Wasilewski

Zoning Enforcement Section

111 W. Chesapeake Avenue

Towson, Maryland 21204

Date: January 3, 1990

Date of issuance: January 2, 1990.

6th Councilmanic District

At the request of Corneius W. DeMoss, you are commanded by the County Board of Appeals of Baltimore County to appear and testify at the following date, time and place:

54 58 174 S- NAL 02

(3205 Summit Avenue)

ASSIGNED FOR:

County Board of Appeals of Baltimore County COUNTY OFFICE BUILDING 111 W. CHESAPEAKE AVENUE COWSON, MARYLAND 21204 (301) 494-3180 887-3180 County Office Building September 22, 1989 NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIEN REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 89-226-XA CORNELIUS W. DEMOSS, JR., ET UX W/S of Summit Avenue, 823' S of Homeland Avenue (3205 Summit Avenue) 11th Election District 6th Councilmanic District SE -Residential Kennel VAR-Setbacks

4/27/89 - D.Z.C.'s Order DENYING Petitions

WEDNESDAY, DECEMBER 27, 1989 at 10:00 a.m.

cc: Mr. and Mrs. Cornelius W. DeMoss. Jr. Petitioners/Appellants • Counsel for Petitioners/Appellants Georgia Lewis Leonhart, Esquire Dale & Kathie Thomas Thomas Jenkins

Noradeen and Florence Lehrer Nancy Webster Andy and Betty Gall Janice Chason Donald Crosby Michele Goonan Mary DeBaufre

Mr. and Mrs. E. Bruzdoski People's Counsel for Baltimore County P. David Fields Pat Keller J. Robert Haines Ann M. Nastarowicz W. Carl Richards, Jr. Docket Clerk - Zoning

Arnold Jablon, County Attorney

LindaLee M. Kuszmaul Legal Secretary

> Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353

1-2 16:25 111 W. Chesapeake

#104. Tourson MD 21204

J. Robert Haines

Dennis F. Rasmussen
County Executive

That Edward Eky

Robert Edward Eley

Baltimore County Board of Appeals County Office Building, Room 315 Towson, Maryland 21204

RE: Petition for Special Exception & Zoning Variance W/S of Summit Avenue, 823' S of Homeland Avenue (3205 Summitt Avenue) 11th Election District, 6th Councilmanic District CORNELIUS W. DEMOSS, JR., ET UX - Petitioners Case No. 89-226-XA

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

(3205 Summit Avenue)

11th Election District

SE-Residential Kennel

6th Councilmanic District

\* \* \* \* \* \* \* \* \* \* \* \* \* \*

At the request of Corneius W. DeMoss, you are commanded by

Date of issuance: January 2, 1990.

Pursuant to MB Rule 2-12b(a), I, the undersigned, hereby certifythat service of process was succested on beauty dualiers ski on January 2, 1990, by delivering and baving a copy of

I further certify that I am over 18 yes of age and am not party to this action. I be solumnly declare and affirm under populty of perjugy that the matters and facts set forth heroin are true to the lest of my knowledge, into , and belief.

SO US THE SHALL GO UNAL GO

the County Board of Appeals of Baltimore County to appear and

W/s of Summit Ave., 823' S of Homeland Ave.

CASE NO. 89-226-XA CORNELIUS W. DEMOSS, JR., ET UX

VAR-setbacks

Baltimore County Office of Planning and Zoning

TO: Zoning Inspector Leonard Wasilewski

testify at the following date, time and place:

County Board of Appeals of Baltimore County,

Male, Cauc, 62", 200 los of Brown Hours Syes, Glasses

Place: Room 301, County Office Building.

Zoning Enforcement Section

111 W. Chesapeake Avenue

Towson, Maryland 21204

Date: January 3, 1990

Time: 9:00 a.m.

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on May 30, 1989 by Georgia Lewis Leonhart; Attorney on behalf of the Petitioners. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Zoning Commissioner

JRH:cer

Enclosures

cc: Mr. & Mrs. Cornelius W. DeMoss, Jr. & Christine DeMoss 3205 Summitt Avenue, Baltimore, Maryland 21234 Georgia Lewis Leonhart, Inner Harbor Center, Eighth Floor 400 East Pratt Street, Baltimore, Maryland 21202

Georgia Lewis Leonhart, Inner Harbor Center, Eighth Floor 400 East Pratt Street, Baltimore, Maryland 21202 Dale & Kathie Thomas, 9719 Uxbridge Road, Baltimore, MD 21234. Thomas Jenkins, 3200 Summit Avenue, Baltimore, MD 21234 Noradeen & Florence Lehrer, 3203 Summit Ave., Baltimore, MD 21234 Nancy Webster, 9701 Uxbridge Road, Baltimore, MD 21234

420.1--Notwithstanding other provisions of these regulations to the contrary, certain helicopter operations shall be permitted as provided under this Section 420. [Bill No. 85, 1967.]

420.2--Temporary use may be made of an area for helicopter flights for promotional activities, providing that such area shall be at least 500 feet from any occupied residence and that use permits shall be first procured from the Director of Public Safety 24 and the Zoning Commissioner and that such permits shall be limited as to time as specified by the

420.3--Helicopters may be used to move equipment and supplies at construction sites, provided that a permit for such use is first obtained from the Director of Public Safety.

420.4--Helicopters may make landings on public utility rights of way and, with the owners' consent, on land adjacent thereto for purposes of inspection or repairs of public utility

420.5-- No special exception shall be required to permit either a Type I or Type II heliport if such use is located: at least 1000 feet from any property line; in an R.6 or R.40 Zone; and beyond the urban-rural demarcation line. [Bill No. 85,

at any time in any zone, in accordance with current regula-

Section 421--ANIMAL BOARDING PLACE, KENNEL, PET SHOP, VETERINAR-IAN'S OFFICE, VETERINARIUM [Bill No. 85, 1967-]

421.1--Where an animal boarding place or kennel is allowed in a residential zone, either as a Special Exception or as a permitted use, no part of any such use shall be located within 200 feet of the nearest property line. [Bill No. 85,

421.2--Where an animal boarding place, kennel, or pet shop is

Section 420--HELICOPTER OPERATIONS [Bill No. 85, 1967.]

Zoning Commissioner. [Bill No. 85, 1967.]

[Bill No. 85, 1967.]

facilities. [Bill No. 85, 1967.]

1967.]

420.6-- Any helicopter operation caused by emergency is permitted tions of the Federal Aviation Agency. [Bill No. 85, 1967.]

allowed in a business or industrial zone, either as a Special Exception or as a permitted use, no part of such use shall be located within 200 feet of the nearest residential zone. [Bill No. 85, 1967.]

4-85

Andy & Betty Gall, 9717 Uxbridge Road, Baltimore, MD 21234

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County Moard of Appeals of Maltimore County

COUNTY OFFICE BUILDING, ROOM 315 111 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204

HEARING ROCM -Room 301, County Office Building (301) 887-3180

CHRISTINE CHIOFOLO

APPEAL HEARINGS SCHEDULED THE WEEK

OF DECEMBER 25, 1989

TUESDAY 12/26/89 10:00 a.m.

#85-318-SPH (ON REMAND FROM CIRCUIT

NE/s St. George Rd., 825' SE from Middleborough Road (327 St. George Road) 15th Election District SPH -nonconforming use for 3 dwellings and the expansion of 1 dwelling

TUESDAY 12/26/89 1:30 p.m. #89-414-XA

LOUIS C. HOFFMAN, ET UX SE of intersection of Long Green Pike & Glen Arm Road 11th Election District

6th Councilmanic District

SE -roadside stand VAR-driveways and parking areas

WEDNESDAY 2/27/89 10:00 a.m #89-226-XAT

CORNELIUS W. DeMOSS, JR., ET UX W/s Summit Ave., 823' S of Homeland Avenue (3205 Summit Avenue) 11th Election District 6th Councilmanic District SE -residential kennel

VAR -setbacks

WEDNESDAY 12/27/89 1:00 p.m. #CBA-89-175

MAHOGANY PARK, N end of Real Princess Lane, NW of Featherbed Lane 2nd Election District 2nd Councilmanic District

RE: CRG Decision

THURSDAY 12/28/89 HEARING ROOM NOT AVAILABLE FOR CBA HEARING

TOWSON COMMONS, W/s York Road between FRIDAY 12/29/89 10:00 a.m. Chesapeake and Pennsylvania Avenues 9th Election District

#CBA-89-165

4th Councilmanic District

cc: Executive Office AND County Council

Law Office People's Counsel Planning Office Current Planning Board Members Court Reporter Information Desks (2) √Docket Clerk - Zoning RE: CRG Decision 90-130-SPHA TOWSON COMMONS LTD. PART. W/s York Rd. between S/s of Penn. Ave. and the N/s Chesapeake Ave.

9th Election District; 4th Councilmanic District

SPH -modified plan for parking spaces VAR -setbacks; height and projection, open space

and parking requirements.

RE: PETITION FOR SPECIAL EXCEPTION :

for a Kennel, and VARIANCE from Section 421.1 of the Baltimore County Zoning Regulations

N/S of "C" Avenue, 366' W. of Ross Avenue 15th District

Gordon L. Diven, Sr. Petitioner

**BEFORE** 

**COUNTY BOARD OF APPEALS** 

OF

BALTIMORE COUNTY

No. 78-57-XA

### OPINION

This case comes before the Board on an appeal by the Petitioner from an Order of the Zoning Commissioner of Baltimore County, dated November 8, 1977, denying the request for a special exception for a dog kennel, and the accompanying requests for variances.

The petition, in this instance, is for a special exception for a kennel and additionally, a petition for variances from Section 421.1 of the Baltimore County Zoning Regulations to permit setbacks from the property lines of 17 feet, 22 feet, 138 feet and 168 feet in lieu of the required 200 feet. The subject property is located on the north side of "C" Avenue, 366 feet west of Ross Avenue, in the Fifteenth Election District of Baltimore County, and contains 0.340 acres of land, more or less.

Testimony by the Petitioner was presented to the Board about the type of dogs to be housed in the proposed kennels. These are "Huskie" type dogs that Mr. Diven raises, trains, shows and races as a hobby, not as a business. Since a team of sled dogs contains a number of dogs, Mr. Diven needs a special exception for a kennel Much testimony was presented indicating the care taken of these animals, and the efforts to control noise and maintain cleanliness.

Testimony from Protestants was also taken by the Board. This testimony was diametrically opposed to that of the Petitioner. Protestants claimed that these dogs howl and definitely create odors. A "bug light" installed by Mr. Diven was also noted as bothersome and noisy. All of the above testimony is duly recorded in the transcript of this hearing.

The Board is, in this case, faced with two petitions, one for a special Both are closely related to each exception and another for variances to permit same.

BEFORE REL PETITION FOR SPECIAL EXCEPTION : for a Kennel, etc. and for COUNTY BOARD OF APPEALS VARIANCES from Section 421.1 and Section 421.x of the Baltimore County Zoning Regulations E/S of Old York Road 1900' **BALTIMORE COUNTY** N. of Paper Mill Road 10th District No. 80-48-XA Mary Testudine, et al

**Petitioners** 

### OPINION

This case comes before the Board of Appeals on an appeal by the Petitioners for a special exception for a kennel, animal boarding place and a veterinarium, as well as an appeal by the Protestants from the decision of the Deputy Zoning Commissioner granting this special exception with restrictions. The Protestants, comprised of resident homeowners of nearby subdivisions, appealed the granting of the special exception, and the Petitioners' appeal is based on the restrictive controls placed on the request as granted by the Deputy Zoning Commissioner.

The property is a thirty-five (35) acre wooded tract of land located in the Tenth Election District of Baltimore County in an R.C. 4 and R.C. 5 zoned area. subject property is located on the east side of Old York Road 1900 feet north of Paper Mill It is adjoined on the south and west by one acre lot subdivisions of expensive individual homes. The property to the north and west is undeveloped farmland and woods The Petitioners propose to build a single story veterinarium, fully enclosed, which would contain the facilities for the adoption and treatment of small animals, primarily dogs and cats, as well as a detached outdoor paddock and barn for the treatment of larger animals. Testimony by expert and many lay witnesses was heard by the Board over a six day period.

The Petitioners case, as well as the Protestants rebuttal, involved a substantial amount of testimony as to the need for this type of facility in this specific area. The Board, in interpreting Section 502 of the Baltimore County Zoning Regulations and in light of Rockville Fuel & Feed Co. vs. Board of Appeals of City of Gaithersburg, 257 Md. 183 (1970) interpreting County codes such as those existing in Baltimore County, finds that need is not an issue which should become the basis of any decision for a special exception in Baltimore County. It is clear, in reviewing Section 502, that the County Council